

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby amends Chapter 6, “Vehicle Impoundment,” Iowa Administrative Code.

The U.S. Supreme Court (Fla. v. Wells, 110 Sup. Ct. 1632) has held that if a law enforcement agency inventories impounded vehicles, any contraband found during an inventory is inadmissible evidence in a subsequent criminal case unless the agency has a written policy requiring inventories of impounded vehicles. Iowa Administrative Code 661—Chapter 6 was adopted as the required written policy.

Officers of the Department of Public Safety are required by subrule 6.4(2) to conduct an inventory within 24 hours of impoundment of any vehicle. This may be impracticable under emergency conditions, either because officers are urgently needed for duties directly related to an emergency or because large numbers of vehicles may be impounded in a short period during an emergency. The amendment adopted herein allows for the 24-hour period to be extended in emergencies.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is imperative that the written policy for inventories of impounded vehicles immediately reflect actual practice.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by ensuring that the written policy of the Department of Public Safety for inventories of impounded vehicles is consistent with actual practice and is in compliance with the requirements established by the U.S. Supreme Court in Florida v. Wells.

This amendment is also being proposed in a Notice of Intended Action in order to allow for public comment. The Notice is published herein as **ARC 6999B**.

This amendment became effective July 1, 2008.

This amendment is intended to implement Iowa Code section 321.89 and Florida v. Wells, 110 Sup. Ct. 1632.

The following amendment is adopted.

Amend subrule 6.4(2) as follows:

6.4(2) Within 24 hours of towing an impounded vehicle, the officer shall:

a. Complete an inventory of all property in the vehicle and a notation of any parts of the vehicle which appear to be missing or damaged. The inventory shall include a list of the contents of each container in the vehicle. Each container shall be opened unless the contents of a particular container are evident from its exterior. If keys, a locksmith, or other means of access are not reasonably available to the officer, the officer is authorized to break locks to gain access to the vehicle and its locked compartments. The inventory is a record which is intended for use in ensuring the safe return of the lawful possessor’s property and resolving questions regarding the condition or contents of the vehicle.

b. Add to the vehicle tow-in and recovery report information indicating the circumstances of recovery of the vehicle and notification of the owner if the vehicle is believed to be stolen or operated without the consent of the owner.

EXCEPTION: The inventory and completion of the report may be delayed beyond 24 hours after towing of the impounded vehicle has occurred if completion within a 24-hour period is rendered impracticable by road or weather conditions or by the volume of impounded vehicles requiring processing during a limited period of time. Such an extension of time shall be granted automatically if the office processing the vehicles is affected by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 and may otherwise be granted by written permission of the commander of the district or zone office or another supervisor designated by the commander of the officer responsible for processing an impounded vehicle. The reason for any delay in completing the

inventory and report beyond 24 hours after towing a vehicle shall be noted in the report. In any event, the inventory and report shall be completed as soon as practicable after towing the vehicle.

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